

SUBCOMMITTEE NO. 2

Agenda

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Thursday, March 6, 2003
Upon Adjournment of Session
Room 112

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0855 California Gambling Control Commission

The California Gambling Control Commission (GCC) was established by Chapter 867, Statutes of 1997 (SB 8, Lockyer). The five-member commission is appointed by the Governor subject to Senate confirmation. The GCC is responsible for setting policy, issuing licenses, administering, adjudicating, and regulating all matters related to controlled gambling in California.

In addition, pursuant to the Tribal Gaming Compacts and Executive Order D-31-02, the GCC is responsible for (1) administering the gaming license process, (2) controlling, collecting and accounting for all gaming device license fees, (3) making findings of suitability regarding key employees of tribal gaming operations, and (4) ensuring the allocation of gaming devices among California's tribes does not exceed the allowable number in the compacts. Included with this responsibility is serving as Trustee for the Revenue Sharing Trust Fund and Administrator of the Special Distribution Fund.

Budget Request. The budget proposes total expenditures of \$51.5 million for the commission, which is an increase of \$523,000, or 1 percent above current year expenditures. Of the total funding for the commission, \$46 million is from the Indian Gaming revenue Sharing Trust Fund, \$3.3 million is from the Indian Gaming Special Distribution Fund, and \$2.2 million is from the Gambling Control Fund. Funds in the Revenue Sharing Trust Fund are distributed to non-gaming tribes, as define in the compacts.

California Gambling Control Commission – Source of Funding					
Fund	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2001-02	2002-03	2003-04	Change	Change
Indian Gaming Revenue Sharing Trust Fund	\$30,574	\$46,000	\$46,000	\$0	0.0%
Indian Gaming Special Distribution Fund	1,890	2,951	3,344	393	13.3%
Gambling Control Fund	891	2,024	2,154	130	6.4%
Totals, Programs	33,355	50,975	51,498	523	1.0%
Authorized Positions	20	40	46	6	14.6%

ISSUES

License Approval Process

Background. The Gambling Control Act makes the GCC responsible for licensing and imposing fines on persons involved in controlled gambling activities, such as card rooms. With respect to Indian gaming, the GCC is charged with reviewing licenses and permits to make findings of suitability to tribal gaming authorities to help assure that no unqualified or disqualified person is issued or allowed to hold a license. Individuals who must apply for gambling licenses include: (1) those who have a financial interest in the gambling establishment; (2) key employees of the gambling establishment, primarily management and those who handle money; (3) other employees of the gambling establishment; and (4) suppliers of gambling equipment and resources. The Division of Gambling within the Department of Justice (DOJ) is responsible for performing the background check on individuals.

Issue. Last year, the LAO raised an issue with respect to the DOJ's Division of Gambling and the license approval process. According to estimates at that time from the DOJ, there may be as many as 12,000 to 15,000 individuals designated as "key" employees from tribal gaming establishments who would have gambling licenses for review by the GCC for findings of suitability. In addition to this number, there is an unknown number of those with a financial interest and certain suppliers of gaming equipment whose licenses are also to be reviewed by the GCC in order to make findings of suitability.

According to the GCC, the Division of Gaming at the DOJ is currently processing about 1,200 applications and has forwarded a total of approximately 300 to the GCC. The GCC has reviewed and forwarded approximately 300 findings of suitability to tribal gaming authorities.

Staff Comments. The Subcommittee may wish to ask the commission if they have received a timeline from the DOJ regarding the background checks currently being processed and on DOJ's plans to process the outstanding applications.

Informational Issue

Tribal-State Gaming Compacts Scheduled for Renegotiations.

Background. As a result of the passage of Proposition 1A in March 2000, Class III gambling (such as slot machines and banked or percentage card games) became legal on California Indian land for those tribes that enter into a tribal-state compact approved by the Legislature, the Governor, and the federal government. These compacts lay out the legal relationship between the tribes and the state with respect to Indian gambling. According to the GCC, there are currently 107 federally recognized tribes in California, and 61 of these tribes have tribal-state gaming compacts that last until 2020. Of those 61 tribes, 49 are currently operating 50 casinos in California. The compacts have a scheduled renegotiation period in March 2003. The Governor proposes securing \$1.5 billion in General Fund revenues as the result of these renegotiations. Currently, pursuant to the compacts, the tribes pay an estimated total of \$123.3 million annually into the Revenue Sharing Trust Fund (\$46 million) for distribution to non-gaming tribes, and the Special Distribution Fund (\$77.3 million).

Issue. The LAO notes that it is unknown what amount of revenue, if any, will result from the renegotiations of the gaming compacts. However, the LAO has indicated that it is unlikely that the Governor will secure \$1.5 billion in budget-year revenues for the following reasons:

- Under federal law, the Governor cannot impose a tax on the tribes, therefore, the tribes must agree to pay any additional monies.
- The \$1.5 billion proposed is ten times what tribes currently pay, and about 30 percent of their current annual gross revenue of \$5 billion.
- The budget proposes that the collected revenues go directly to the General Fund, as opposed to the current policy, in which the revenues are used largely in a manner related to the tribes or gambling.
- Since the renegotiated compacts also need to be approved by the federal government, it may be difficult to implement any changes to revenue payments to ensure full-year revenues in the budget year.

The LAO further notes that the compacts are voluntary agreements, and that some tribes could choose to continue to operate under the existing agreements for nearly two more decades. As such, the LAO believes that the administration will likely have to negotiate away items of significant value to secure any sizable increases in revenue. For instance, some existing compact tribes have already expressed interest in an expansion of their gaming. To the extent that any compacts are renegotiated, the Legislature would have to ratify the renegotiated compact.

Staff Comments. Staff notes that to the extent that some compacts are renegotiated, it is possible that some provisions related to the Revenue Sharing Trust Fund and the Special Distribution Fund could change for those renegotiated compacts.

Informational Issue.

Revenue Sharing Trust Fund

Background. Funds from the Indian Gaming Revenue Sharing Trust Fund (RSTF) are to be distributed quarterly to non-compact tribes, as defined in the compacts, with an annual maximum of \$1.1 million, or an equal share of the fund should there be insufficient funds to provide the full \$1.1 million to each non-compact tribe. Quarterly payments to the Revenue Sharing Trust Fund are made by compact tribes, dependent on the number of machines licensed to the compact tribe. In addition, a tribe must pay a one-time fee of \$1,250 per machine to obtain a license for the machine.

Distributions. The GCC, as trustee of the RSTF, distributes the moneys received on a quarterly basis to tribes that have no casino or less than 350 gaming devices in operation for the entire quarter. As of March 2003, the GCC had made five distributions covering ten fiscal quarters from July 1, 2000 through December, 2002. These distributions total \$75.6 million and represent approximately \$101,000 per quarter per eligible tribe. The GCC indicates that it is now on a regular quarterly distribution cycle.

Informational Issue.

Special Distribution Fund

Background. Revenues to the Special Distribution Fund (SDF) are dependent on the number of slot machines in operation as of September 1, 1999. Tribes contribute revenues each quarter to the fund, up to 13 percent of the average daily net win from these machines. The GCC is responsible for collecting the appropriate amount of payments into this fund. Pursuant to the compacts, the first quarterly payments into this fund began September 30, 2002. For the first quarterly payment, the GCC reports that 27 of 28 tribes reported to the GCC and a total of \$24 million was deposited into the SDF. The budget estimates that the tribes will contribute \$77.3 million to the SDF in the budget year.

Pursuant to the compacts, the monies in the SDF are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Any other purpose specified by the Legislature.

In the case *Coyote Valley Band of Pomo Indians v. The State of California* a federal district court ruled on the possible uses of the SDF, and in particular, "the other purposes specified by the Legislature." The opinion states that:

"The Court thus construes the "other purposes" listed in Section 5.2(e) of the proposed compact to be limited to other purposes that, like the first four enumerated purposes, are directly related to gaming."

Budget Proposes New General Fund Backfill Expenditures From the SDF

Budget Proposal. Total resources in the SDF will be roughly \$84.5 million (\$77.3 million in payments from tribes plus interest and other revenues). The budget proposes expenditures of \$13.7 million (\$10 million for the DOJ, \$3.3 million for the GCC, and \$341,000 for the Native American Heritage Commission). In addition, the budget proposes to transfer \$220,000 from the SDF to the newly proposed California Indian Assistance Fund. The administration, however, does not propose expenditures for the remaining \$70.8 million in the fund.

Native American Heritage Commission. As indicated above, the proposed expenditures include \$341,000 for the Native American Heritage Commission. This department is scheduled to be before the Subcommittee at the hearing on March 13. Staff notes that the budget proposal would shift all funding for the Native American Heritage Commission from the General Fund to the SDF. At this time, staff is unaware of any functions that the Native American Heritage Commission performs that are related to gaming.

California Indian Assistance Program. The budget also proposes to transfer \$220,000 from the SDF to the California Indian Assistance Fund. This proposal would shift all funding for the California Indian Assistance Program from the General Fund to the SDF. The California Indian Assistance Program funds a housing assistance program within the Department of Housing and Community Development (HCD is heard by Subcommittee #4). This proposal would fund 2 positions within HCD to provide technical assistance to support tribes in increasing their ability to access federal funding resources. The administration has submitted proposed trailer bill legislation relating to HCD that would allow the transfer of up to \$1 million annually from the SDF to the California Indian Assistance Fund. At this time, staff is unaware of any functions that California Indian Assistance program performs that are related to gaming.

Staff Comments. Given the federal district court opinion, the Subcommittee may wish to ask the Department of Finance on what basis it believes that the SDF is an appropriate funding source for the Native American Heritage Commission and the California Indian Assistance Fund.

LAO Identified Potential Options for SDF

Analyst's Recommendation. In reviewing the options for spending the fund balance, the LAO indicates that there are many possible uses, that may be consistent with using the funds for gambling-related activities. The LAO notes that the impacts of gambling are widespread, even in communities without casinos. The LAO suggests that costs related to public safety, road maintenance, and gambling addiction, for instance, affect many cities, counties, and the state.

Given the budget situation and broad parameters of the fund, the LAO recommends using the \$70.8 million for spending which both meets the requirements of the fund and helps the budget situation. For instance, funds currently spent by the General Fund on gambling-related expenses could be replaced with SDF revenues—generating General Fund savings. Below, the LAO identifies two such possible uses for the fund revenues as illustrative examples:

- ***Public Safety Demands.*** The LAO notes that gambling activities increase the needs for law enforcement services throughout the state. The LAO believes that the SDF could appropriately be used to address these public safety demands. In total, cities and counties spend billions of dollars annually on public safety. The LAO notes that the state contributes a small amount of this total annually (\$116 million from the General Fund) through the Citizens' Option for Public Safety (COPS) program. If the Legislature continues to fund the COPS program, the LAO suggests that a portion of the funding could be directed from the SDF. Given the large amounts of money being spent, the LAO believes that it is reasonable to assume that such a small COPS-related portion of total public safety expenditures is already spent on gambling-related activities.
- ***Treat Gambling Addiction.*** The LAO notes that there are currently many individuals with gambling problems. The LAO suggests that it is reasonable to assume that some individuals that suffer from this problem seek mental health services. Currently, several hundreds of millions in General Fund dollars are allocated to counties to provide mental health services at the local level. As with the public safety example above, the LAO believes that a portion of these General Fund expenditures could be replaced with Special Distribution revenues.

Staff Comments. Staff notes that a number of bills related to use of the revenues in the SDF have been introduced. The GCC has identified the following bills related to the SDF: AB 113 (Chavez), and SB 769 (Battin), and SB 930 (Burton).

Staff Recommendation. Staff recommends that the Subcommittee get further justification from the administration regarding the legality of providing SDF funding the non-gaming activities in the Native American Heritage Commission and the California Indian Assistance Program prior to approving these transfers. Additionally, staff recommends directing the LAO to work with staff to develop specific options for a spending plan for the funds within the SDF, with an emphasis on funding programs that meet public safety demands, counteract environmental impacts of gaming, and provides gambling addiction treatment type services, while generating General Fund savings.

Compliance, Licensing, and Administration Increase

Budget Request. The budget requests six positions and \$541,000 for workload at the GCC (\$379,000 from the Indian Gaming SDF and \$162,000 from the Gambling Control Fund).

This funding is proposed for the following purposes:

- Auditing Indian Gaming casinos for full, proper payment of revenues to the Indian Gaming SDF;
- Ensuring proper compliance with gaming device license payments, redistribution, and other compact compliance matters;
- Conducting revenue audits and other compliance reviews of gambling establishments to determine that proper application and license fees are collected under the Gambling Control Act;
- Initiating a compliance review and regulation development program;
- Reviewing and making recommendations to the commission on actions to take on license applications and compact findings of suitability determinations;
- Coming into compliance with a number of administrative-related statutory mandates.

The six requested positions consist of four auditors and two administrative staff.

Staff Comments. The Subcommittee has received a letter from the Agua Caliente Band of Cahuilla Indians, objecting to these proposed increases. The letter raises concerns over whether the requested positions are efforts by the GCC to perform tasks that are not needed, not necessary, and are not authorized by the compacts. Specifically, the letter questions whether the audit positions would fulfill a function better performed by the DOJ's Division of Gambling, and whether the requested administrative staff is needed.

Staff Recommendation. Staff notes that no objections to the proposal have been raised by the LAO. Staff recommends approval as budgeted.

8140 State Public Defender

The Office of the State Public Defender (OSPD) was established in 1976 to provide indigent representation. Chapter 869, Statutes of 1997, revised the mission of the State Public Defender. The OSPD is now required to concentrate on post-conviction proceedings following a judgment of death. Specifically, the OSPD is limited to representing capital appellants only for the purpose of the direct appeal for all cases to which the OSPD was appointed after January 1, 1998.

State Public Defender -- Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				<i>Percent Change</i>
	2001-02	2002-03	2003-04	Change	
TOTAL, State Public Defender	\$11,525	\$10,928	\$11,038	\$110	1.0%
Total Positions	98	104	103	-1	-0.5%

Budget Request. The budget proposes \$11 million from the General Fund, an increase of \$110,000 or 1 percent above current year expenditures. The budget includes a reduction of \$101,000 and 2 positions related to performing legal research and administrative functions.

Mid Year Reduction. The mid year revision included a reduction of \$182,000 and 1.5 positions as well as savings related to two vacant attorney positions. These two positions are funded in the budget year.

Staff Recommendation. Staff recommends approval as budgeted.

Action.

8120 Commission on Peace Officer Standards and Training (POST)

The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competency level of law enforcement officers by establishing minimum selection and training standards, improving management practices, and assisting local law enforcement agencies in providing necessary training and career development programs.

Budget Request. The budget proposes a total of \$28.7 million, which is a decrease of \$23.7 million, or 45.2 percent from the current year budget. This decrease is due primarily to the elimination of the local assistance program that partially reimburses local law enforcement agencies for certain training costs (\$28.3 million).

Funding within POST supports law enforcement training needs such as developing and certifying courses that meet identified training needs, quality control of POST-certified courses, management and leadership training, and identifying emerging training needs. The budget proposes expenditures of \$27.5 million from the Peace Officer's Training Fund (POTF). Included in this amount is the continuation of \$2 million for the "Tools for Tolerance" training program operated by the Simon Wiesenthal Center-Museum of Tolerance.

POST Funding Sources					
Funding Source	<i>(dollars in thousands)</i>			Change	Percent Change
	2001-02	2002-03	2003-04		
General Fund	\$4,374	\$1	\$1	\$0	0.0%
Peace Officers' Training Fund	60,739	51,172	27,485	-23,687	-46.3%
Reimbursements	1,041	1,259	1,259	0	0.0%
Totals, All Funds	\$66,154	\$52,432	\$28,745	-\$23,687	-45.2%

The table below shows the proposed program expenditures for the POST.

POST Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>			Change	Percent Change
	2001-02	2002-03	2003-04		
Standards	\$6,683	\$6,240	\$6,682	\$442	7.1%
Training	26,270	22,856	21,618	-1,238	-5.4%
Peace Officer Training	28,827	23,335	444	-22,891	-98.1%
Administration	4,445	5,206	5,023	-183	-3.5%
Distributed Administration	-4,445	-5,206	-5,023	183	-3.5%
State-Mandated Local Programs	4,374	1	1	0	0.0%
Totals, Programs	\$66,154	\$52,432	\$28,745	-\$23,687	-45.2%
Total Authorized Positions	128	121	121	0	0.0%

Budget Issues

Peace Officer Training Fund Transfer to the General Fund and Fund Condition

Background. Nearly 90 percent of the expenditures for POST are funded by the Peace Officers' Training Fund (POTF). The POTF receives monies from the State Penalty Assessment Fund, which in turn receives monies from penalty assessments on criminal and traffic fines. Since 1997-98, the amount derived from these assessments has been between \$33 million and \$37 million annually. In addition, in many years, another \$14 million has been transferred annually from the Driver Training Penalty Assessment Fund through Control Section 24.10 of the Budget Act. In fiscal year 2000-01 the fund balance for the POTF was \$24.7 million after adjustments. Due to the state's fiscal condition, funding was not transferred through Control Section 24.10 in 2001-02, and is not being proposed to be transferred in the budget year. Instead those funds would be transferred to the General Fund.

Proposal. The budget also proposes transfer of \$14.3 million from the Peace Officers' Training Fund (POTF) to the General Fund. As can be seen in the table below, revenues into this fund have been below expenditures for a number of years, with the fund having to depend on transfers from the Driver Training Penalty Assessment Fund to meet expenditures.

Peace Officers' Training Fund – Fund Condition				
	2000-01	2001-02	<i>Expenditures (dollars in thousands)</i>	
			2002-03	2003-04
Prior Year Balance	\$29,617	\$24,654	-\$2,232	\$4,456
After Adjustments				
Revenues	\$39,536	38,853	39,154	39,445
Transfers to General Fund	0	0	0	-14,300
Transfers from Driver Training Penalty Assessment Fund	14,000	0	18,706	0
Total Resources	83,153	63,507	55,628	29,601
State Operations Expenditures	36,937	32,016	27,954	27,041
Local Assistance Expenditures	23,811	28,723	23,218	444
Other Expenditures	0	5,000	0	0
Total Expenditures	60,748	65,739	51,172	27,502
Reserve	\$22,405	-\$2,232	\$4,456	\$2,099

Staff Recommendation. Not approving the transfer would result in a loss of \$14.3 million from the General Fund. Staff notes that this issue is related to the next issue regarding local law enforcement training reimbursements. At this time, staff recommends approving the proposed General Fund transfer.

Elimination of the Law Enforcement Reimbursements

POST certifies approximately 3,000 law enforcement training courses statewide. Traditionally, local agencies have relied on training reimbursement funds established pursuant to California Penal Code Section 1464 (f) (3). These monies, combined with Community College Funding and shared costs borne by local government have shared responsibilities for the some of the costs for local law enforcement training. POST has set a standard of 24 hours of training bi-annually. The budget proposes elimination of the program that reimburses local law enforcement for some of the costs of training for savings of \$28.3 million from the Peace Officers' Training Fund. Specifically, the program reimburses local law enforcement agencies for travel, per diem, cost of replacement officers, and some tuition costs associated with sending officers to training. In 2001-02 POST reimbursed local agencies a total of \$28.5 million.

Due to a projection of insufficient funds from the POTF in the *current* year, in January, POST informed local law enforcement agencies that reimbursement for training is suspended effective March 1, 2003. POST currently estimates that even with this action, the POTF may still be \$1.3 to \$1.5 million short to cover expenditures in the program. If so, POST indicates that it will end some contracts from the state operations portion of the budget to cover the shortfall.

The California State Sheriffs' Association has submitted a letter to the Governor stating that the elimination of \$28.3 million in local assistance is a direct hit on Sheriff's Departments and their requirement and desire to provide ongoing and updated training. The Association notes that the state and local jurisdictions may be subject to "failure to adequately train" type of lawsuits if there is a reduction in training for officers and requests reconsideration of this reduction by the Governor.

At this time, there is no estimate on the impact that this change will have on the training programs.

Training Contracts. About 90 percent of courses for which POST reimburses training costs are offered in conjunction with community colleges. Of the \$28.7 million remaining in the budget for POST, approximately \$13.1 million is for contracts for non-community college offered courses. These courses tend to be more specialized courses that POST feels can't be done under the community college model, such as Driver Training Courses, the Command College, Specialized K-9 Courses, Meth Lab Removal Courses, and Forensic Science Courses.

Potential Alternative. The Budget Act of 2002 contains language that allows POST to transfer funding back and forth between its local assistance item (training reimbursements) and its state operations, including funding for the training contracts. One alternative may be to insert similar transfer language in the proposed budget bill and create a local assistance item with an appropriation of \$1,000. This may give POST some flexibility to cancel some contracts if there is a large decrease in the demand for certain types of specialized training, and transfer the money to local assistance and offer a lower amount of reimbursement (for example, one half of the previous level) for a core component of training courses identified by POST.

Staff Recommendation. Staff recommends approving the proposed reduction, and approving budget bill language allowing POST to transfer fund between state operations and local assistance. Staff further recommends approving a local assistance appropriation within the POST budget with an appropriation of \$1,000. This action may give POST additional flexibility to provide some level of reimbursement for a small core of training courses should POST determine that the reduction is having a severe impact on core training efforts.

Control Section 5.25 – Payments for Litigation

Control Section 5.25 provides that payments for any attorney fee claims, settlements, or judgments arising from actions in state court against a state agency or officer shall be paid from appropriations in the Budget Act that support the affected agency.

The proposed language is identical to the language approved in previous years. Last year, Subcommittee No. 2 approved this item as budgeted.

Staff Recommendation. No issues have been raised by LAO or other Legislative staff. Staff recommends approval as budgeted.

Control Section 24.10 – Driver Training Fund Transfers

Background. The Driver Training Penalty Assessment Fund receives funds from a portion of the State Penalty Assessment Fund. Historically, using Control Section 24.10, specified portions of the Driver Training Penalty Assessment Fund have been transferred to the Victim/Witness Assistance Fund, the Peace Officers' Training Fund, and the Corrections Training Fund, with the remaining balance going to the General Fund. The Budget Act of 2001 directed the Controller to transfer \$38.3 million to the General Fund. In the current year, the budget estimates that \$18.7 million will be transferred to the Peace Officer Training Fund, \$6.9 million to the Corrections Training Fund, and \$14.2 million to the General Fund.

Proposed Language. Proposed budget bill language would transfer up to \$4.1 million to the Victim Witness Assistance Fund, and an estimated \$36 million to the General Fund.

Staff Recommendation. Staff recommends approval as budgeted.

8180 Payment to Counties for Costs of Homicide Trials

It is State policy that the cost of homicide trials should not unduly impact local government finances. Government Code Sections 15200 through 15204 implement this policy by allowing a county to apply to the Controller for reimbursement of specified costs of homicide trials and hearings. The reimbursement formulas vary by the population of the county and provide for reimbursement of a specified percentage of one percent of the full value of property assessed within the county.

Budget Request. The budget proposes total expenditures of \$5 million from the General Fund. This is a reduction from \$7.5 million for the current year.

Staff Comments. The budget for this item has been historically difficult to estimate. Last year the LAO recommended reducing the proposed budget of \$7.5 to \$5 million based on historical spending trends. The Legislature funded this item at \$7.5 million due to the large number of murder trials that were scheduled for the current year. The DOF reports that based on a survey of the counties, it estimates that \$5 million should be sufficient in the budget year.

Staff Recommendation. Staff recommends approval as budgeted. The Subcommittee may wish to have the Department of Finance provide an update of expenditures and estimated budget year costs at the time of the May Revision.

8700 California Victim Compensation and Government Claims Board

The California Victim Compensation and Government Claims Board, formerly known as the Board of Control, consists of three members, the Director of General Services who serves as the chair, the State Controller, and a public member appointed by the Governor. The primary functions of the Board of Control are to: (1) compensate victims of violent crime and eligible family members for certain crime-related financial losses, (2) consider and settle all civil claims against the state, (3) provide equitable travel allowances to certain government officials, (4) respond to bid protests against the state alleging improper or unfair acts of agencies in the procurement of supplies and equipment, and (5) provide reimbursement of counties' expenditures for special elections.

Budget Request. The budget proposes \$180.4 million (\$791,000 from the General Fund), which is a decrease of \$30.6 million, or 14.5 percent from anticipated current year expenditures. Of the total proposed expenditures, \$171.2 million is proposed for the Citizens Indemnification Program, which indemnifies those citizens who are injured and suffer financial hardship as a direct result of a violent crime. This represents a decrease of \$30.4 million for this program from estimated current year expenditures.

The Claims Board is primarily funded from the Restitution Fund, with total expenditures of \$126.1 million are proposed from the Restitution Fund, and \$53.4 million from Federal Funds.

California Victim Compensation and Government Claims Board -- Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2001-02	2002-03	2003-04	Change	Change
Citizens Indemnification	\$160,905	\$201,661	\$171,222	-\$30,439	-15.1%
Quality Assurance & Revenue Recovery	7,489	7,797	8,310	\$513	6.6%
Disaster Relief Claim Program	7	19	19	\$0	0.0%
Civil Claims Against the State	901	785	791	\$6	0.8%
Citizens Benefiting the Public (Good Samaritans)	10	20	20	\$0	0.0%
Administration	6,698	7,702	7,715	\$13	0.2%
Distributed Administration	-6,698	-7,702	-7,715	-\$13	0.2%
Counties' Special Election Reimbursements	1,104	667	0	-\$667	-100.0%
Totals, Programs	\$170,416	\$210,949	\$180,362	-\$30,587	-14.5%
Total Authorized Positions	321	325	325	0	0.0%

California Victim Compensation and Government Claims Board -- Source of Funding					
Fund	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2001-02	2002-03	2003-04	Change	Change
General Fund	\$1,978	\$1,452	\$791	-\$661	-45.5%
Missing Children Reward Fund	0	2	2	0	0.0%
Restitution Fund	137,362	154,571	126,145	-28,426	-18.4%
Federal Trust Fund	31,042	54,905	53,405	-1,500	-2.7%
Reimbursements	34	19	19	0	0.0%
Totals, Programs	\$170,416	\$210,949	\$180,362	-\$30,587	-14.5%

Restitution Fund

Background. The budget estimates that *current year* claim payments to victims from the Restitution Fund will total \$106.7 million, an increase of \$13.7 million or 14.8 percent from the prior year. For the *budget year*, estimated claims payments are projected to decrease by \$27.2 million, or 25.5 percent to \$79.5 million. In both the current year, total expenditures from the Restitution Fund are approximately \$47 million greater than revenues, and are financed by drawing down the reserve. As can be seen in the following table, the reserve for the Restitution Fund will decrease from about \$80 million at the end of 2000-01 to an estimated \$454,000 at the end of the budget year. This change is due primarily to large increases in expenditures since 1999-2000, while revenues have remained relatively flat.

Restitution Fund – Revenues, Expenditures, and Reserve								
	<i>Expenditures (dollars in thousands)</i>						<i>Prior Year</i>	<i>Percent</i>
	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	Change	Change
Prior Year Balance After Adjustments	\$54,029	\$75,911	\$82,625	\$78,626	\$47,930	\$1,001	-\$46,929	-97.9%
Revenues	95,829	102,154	107,267	110,388	111,750	125,598	13,848	12.4%
<i>Total Resources</i>	<i>149,858</i>	<i>178,065</i>	<i>189,892</i>	<i>\$189,892</i>	<i>\$159,680</i>	<i>\$126,599</i>	<i>-\$33,081</i>	<i>-20.7%</i>
<i>Total Expenditures</i>	<i>83,008</i>	<i>100,512</i>	<i>109,232</i>	<i>141,084</i>	<i>158,679</i>	<i>126,145</i>	<i>-32,534</i>	<i>-20.5%</i>
Reserve	66,850	77,553	80,660	47,930	1,001	454	-547	-54.6%

Substantial Increase in Compensation Applications. The board notes that the number of applications received has increased dramatically. Between 1999-00 and 2001-02, applications increased 50 percent from 42,257 to 63,225. In the same period, payments increased by 45 percent from \$86 million to \$124 million. The board estimates that in the current year, application will total 76,000 and that payments will increase to \$158 million. The board indicates that despite the increasing claims, it has made significant efforts to reduce the claim processing time. In 1998-99 the average claim was processed in 119 days, while in the current year that number has been reduced to 65 days.

Revenues Relatively Constant. Between 1999-00 and 2001-02, state Restitution Fund revenues increased by 8 percent, from \$102 million to \$110 million.

Board Actions to Prevent Over-Expending the Restitution Fund.

In July 2002, the board took the following actions to reduce expenditures:

- Adopted the Medicare fee schedule for medical expenses.
- Adopted the Denticare fee schedule for dental expenditures.
- Adopted mental health treatment reimbursement rates of \$70 for master's degree level therapists and \$90 for psychiatrists and psychologists.
- Implemented several administrative cost reduction strategies, including elimination of 19 vacant positions (\$712,000), freezing 24 vacant positions at Joint Power county agencies (\$1.1 million), reducing contract staff, and restricting non-essential training and travel.

Given an estimated 36 percent increase in payments in the current fiscal year, the board estimated that these reductions would not be sufficient to close the gap between revenues and expenditures.

As a result, the board took the following actions in January 2003:

- Because the board anticipates cash flow problems in the current year, it directed that if insufficient funds are available for payment of all expenses and eligible claims, that payment are to be prioritized as follows:
 1. Payroll and operating expenses
 2. Victim payments
 3. Provider payments

The board indicates that it is delaying provider payments in the current year.

Mental Health Session Limits. According to the National Association of Crime Victim Compensation Boards, while other states pay an average of 6 percent of their total payments for mental health services, California pays 40 percent of its total payments for mental health services. California's mental health payments constitute nearly 70 percent of all mental health benefits paid nationally for victim compensation programs. Based on preliminary analysis, the board indicates that the following factors play a role in the difference between California and other states: (1) California receives a substantially higher percentage of applications from child victims, not as a result of a larger population per capita, or a higher percentage of substantiated child abuse cases, but likely from better outreach efforts, (2) the average amount paid on mental health treatment is higher in California, probably due to longer lengths of treatment and higher benefit limits, (3) many states limit payment for mental health treatment to family members of homicide survivors only, while California provides reimbursements for all crime types.

- At its January 2003 meeting, the board adopted the following service limitations for mental health counseling:
 1. For a child victim, 40 sessions
 2. For an adult victim, 30 sessions
 3. For a family member when the victim has been killed, 30 sessions
 4. For a family member in all other cases, 15 sessions
 5. Extension of mental health treatment may be extended in cases requiring additional treatment or in dire or exceptional cases.

The board estimates that these actions will provide \$1 million in savings in the current year and \$18 million in the budget year.

Medical Services. As indicated above, the board adopted the Medicare Fee Schedule for all medical bills at the July 2002 meeting. Previously, the board used the Workers Compensation Fee Schedule for some bills, other were reduced by 25 percent, and some were paid at 100 percent of the billed amount. The Medicare Fee schedule is approximately 25 percent *lower* than the Workers Compensation Fee Schedule and about 50 percent *higher* than the MediCal Fee Schedule.

- At the board meeting in January 2003, the board adopted the Medicare Fee Schedule minus 20 percent for reimbursement of medical expenses. The board estimates that this will result in \$3 million in savings for the current year and \$9 million in the budget year.

Domestic Violence Reimbursements. At its January 2003 meeting, the board adopted guidelines regarding the following criteria for reimbursement of domestic violence relocation expenses (estimated savings of \$300,000 in the current year and \$500,000 in the budget year):

1. The \$2,000 relocation benefit limited to the move of a household and not each eligible member of the household
2. The victim must submit a copy of a formal lease agreement or a statement from the landlord
3. Directed the Executive Officer to develop a checklist for law enforcement and/or mental health providers to complete to substantiate the statutory basis for the relocation benefit
4. If the relocation is necessary for the victim's emotional well being, the victim must be receiving supportive counseling services from a licensed mental health therapist or intern, or a domestic violence or sexual assault program

Proposed Trailer Bill Language

Additionally, at its January meeting, the board indicated that it will pursue the following legislation. These proposals are included as trailer bill language.

- Limits the award to victims and family members to \$70,000 per victimization unless a victim is permanently disabled rather than \$70,000 per victim. If the victim is permanently disabled, an additional \$70,000 would be available for all family members to share for support loss. The board estimates that this would produce savings of \$400,000.
- Increases the minimum restitution fines for misdemeanor from \$100 to \$250 and for felonies from \$250 to \$500. Specifies that the court may not stay the restitution fine after it has been imposed. The board estimates that this would increase revenues by \$13.1 million in the budget year and \$17 million annually thereafter. The board indicates that getting to a \$250 minimum will allow it to use the FTB's collection program (which requires a minimum collection amount of \$250).
- Allows the restitution order to include reasonable attorney fees and costs of collection incurred by public entities on behalf of a victim.
- Would require a defendant who has an unpaid balance on a restitution order or fine at the time of his or her release from probation or parole to submit a current financial disclosure document to his or her probation or parole officer. The board indicates that having current bank account information and current addresses of property will allow for better collection.
- Specifies that any portion of a restitution order, fine, or diversion fee that remains unsatisfied upon the death of a defendant endures and attaches to the estate until satisfied.
- Requires a court to mail to the board a copy of any order requiring a defendant to pay restitution to the board within 10 days of the imposition of the order. The board indicates that this will give it better information on what is being assessed and how much is being collected.
- Specifies that the parole revocation restitution fine becomes effective on revocation of parole, and cannot be waived or reduced by the court, and creates a probation revocation restitution fine to be assessed by the court each time a person's probation is revoked.
- Increases the reissue fee for reinstating a driver's license after the license has been suspended for DUI or refusing to take a chemical test from \$125 to \$225 with \$100 deposited into the Restitution Fund. The board estimates that this would increase revenues by \$1.4 million in the budget year and \$6.6 million annually thereafter.

In addition, the board has submitted a letter of support to the Department of Corrections, regarding a proposed regulation change to increase the percentage of funds being collected from Inmate Trust Accounts from 20 percent, up to the statutory maximum of 50 percent. The board has estimated that half year funding at 30 percent would generate \$2 million in the current year and the proposed increase from 30 percent to 50 percent in the budget year would generate \$9.6 million in the budget year.

Staff Comments. Staff notes that even assuming these requested revenue and cost containment proposals, the Restitution Fund may not have adequate funds in both the current and budget years. Additionally, staff notes that many of these proposed legislative changes raise significant policy issues. As indicated below, staff notes that some of the revenue projections included in the current estimates may not materialize. Additionally, some provisions of the proposed trailer bill language, such as the requirement that courts mail to the board any order requiring a defendant to pay restitution within 10 days of the imposition of the order may be burdensome for the state's court system (which already notifies the State DOJ on all restitution orders related to felonies) and duplicative and unmanageable for the board. Staff recommends that this language be introduced in a bill going through the regular bill process, or that the Subcommittee refer the language to the appropriate policy committees.

Additional Revenue Proposals Will Not Generate Estimated Revenues

As indicated above, the revenue estimates for the Restitution Fund are projected to increase in the current year and the budget year due regulation changes at the Department of Corrections to increase collections from the Inmate Trust Accounts (\$2 million in the current year and \$9.3 million in the budget year), and in the budget year due to proposed trailer bill language to increase the minimum fines for misdemeanor and felony convictions (\$13.1 million), and to charge a \$100 reissue fee that goes directly to the Restitution Fund when reinstating a driver's license that has been suspended for a DUI (\$1.4 million). The reserve for the Restitution Fund with these new revenues is projected to be \$1 million in the current year, and \$454,000 in the budget year.

Increased Collections From Inmate Trust Accounts. The budget assumes \$2 million in the current year from half-year funding from an increase in the amount that CDC collects from Inmate Trust Accounts. In January, the CDC held public meetings regarding this proposed regulation change. The CDC indicates that a decision on the regulation change will be forthcoming. Because this amount is not currently being collected, the \$2 million estimated in the revenue projections will be eroded in the current year.

Minimum Fines for Misdemeanor and Felony Convictions. The proposal assumes \$13.1 million in the budget year and \$17 million ongoing due to increasing the minimum restitution fines on misdemeanor (\$100 to \$250) and felony convictions (\$250 to \$500). In its estimates, the board assumed a collection rate of 25 percent. Due to lack of information, staff can not determine whether this is a reasonable expectation, especially in the first year of implementation. Staff notes that last year the Legislature added a 20 percent surcharge on all criminal fines and penalties, estimating that additional revenues of \$45.8 million. Due to implementation delays and to actual collection rates, as of February, a total of \$1.5 million has been collected.

DUI Reissue Fee Increase. The proposal assumes \$1.4 million in the budget year and \$6.6 million ongoing by increasing the reissue fee for reinstating a driver's license after the license has been suspended for DUI or refusing to take a chemical test from \$125 to \$225 with \$100 deposited into the Restitution Fund. The board has recently informed staff that this proposed fee increase, which goes directly to the Restitution Fund, violates the Constitution. The board will withdraw this proposal, further eroding the revenue estimates in the budget year.

Staff Recommendation. For these reasons, staff believes that the projected revenues for the Restitution will not be generated in either the current year or the budget year. Staff recommends that the Subcommittee direct the LAO to review the revenue estimates and the projections for the Restitution Fund and the proposed new revenues and report back to the Subcommittee by the Open Issues hearing on May 8 with an estimate of the revenues for the current year and the budget year, and with recommendations regarding additional options for enhancing revenues.

State Operations Expenditures

Issue. As can be seen in the table on the following page, administrative expenses in the current year are estimated to make up about 25 percent of total expenditures by the board. This amount has been reduced from 32 percent in 2000-01. Staff notes that even at 25 percent, these expenditures seem relatively high. For example, for the Medi-Cal program, which performs similar administrative functions such as determining eligibility of applicants, processing bills and claims, making provider payments, in addition to tasks not performed by the board such as providing treatment authorization, and performing licensing and certification of facilities, expends between 10 percent and 15 percent for administrative expenses.

Further, the board indicates that the federal funds that it administers limit state operations funding to only 5 percent for those funds.

California Victim Compensation and Government Claims Board – Total Expenditures (Claim Payments and Administrative Expenses)								
Type of Expenditure	<i>Expenditures (dollars in thousands)</i>				<i>Estimated</i>			
	1999-00	Percent	2000-01	Percent	2001-02	Percent	2002-03	Percent
Administrative Expense	\$35,012	29%	\$41,339	32%	\$45,879	27%	\$53,078	25%
Claim Payment	85,687	71%	88,253	68%	123,952	73%	158,679	75%
Totals, Programs	\$120,699	100%	\$129,592	100%	\$169,831	100%	\$211,757	100%

Attorney Fees. On example of administrative expenses is attorney fees. Under current law, an attorney may receive up to 10 percent of the amount of a victim's award or \$500, whichever is less, for rendering legal services. Under the current process, attorneys are automatically awarded 10 percent of the paid amount, or \$500, irrespective of the level or amount of legal services provided to the victim. In 2001-02, the board paid out \$782,000 for attorney expenses. The board indicates that in a significant number of instances, attorneys are awarded 10 percent for filing an application with no other legal services rendered.

The board has discussed proposals to pay attorney fees only on claims where there is an appeal, a hearing is conducted, and the attorney makes an appearance in an administrative hearing on a claim. Of the 438 appeal hearings held in 2002, the board indicates that attorneys represented 58 victims who appealed their cases. Based on these numbers, the board staff has estimated that annual savings of \$696,000 could be achieved.

The federal Office of Victims of Crime (OVC) supports limiting attorney fees. The board notes that in a July 2002 letter, the OVC director states, "We do not believe that victims need an attorney to apply for compensation and would not want to see limited (Victims of Crime Act) dollars used to reimburse attorneys to the detriment of reimbursing victims for out-of-pocket expenses. This is particularly true in a state like California where the application requirements and procedures have been substantially modified to make the process accessible and easy for victims to apply for compensation benefits."

To date, the board has taken no action on this issue.

Supplemental Report. Last year, because of concerns raised about the Restitution Fund balance, the Legislature approved Supplemental Report Language directing the board to report on updated revenue projections, revenue enhancement efforts, and cost containment proposals. The report, due January 10, is still under review and has not been released to the Legislature.

Staff Recommendation. Staff recommends that the Subcommittee direct the LAO to review expenditures from the Restitution Fund, including (1) comparing expenditure levels with victim compensation boards nation-wide, (2) examining the expenditure reductions proposed by the board, (3) comparing administrative expenditures of the board with other state agencies that perform similar functions, and (4) developing potential options for additional expenditure reductions, and report back to the Subcommittee by the May 8 Open Issues hearing with recommendations for additional cost containment proposals.

Witness Protection Funding

Background. The Witness Protection Program was established by AB 856 (Hertzberg) in 1997. Each year, the Legislature has appropriated approximately \$3 million from the Restitution Fund for this program. The funds from the program go directly to witnesses who are credibly threatened with retaliation, violence, and/or death. The role of the DOJ and local prosecutors is to determine whether a witness meets the criteria to receive relocation funding.

Budget Request. The proposed budget deletes funding for this program, for a savings of \$3 million from the Restitution Fund. There is legislative intent language in AB 856 that Witness Protection Program be funded from the surplus in the Restitution Fund. Because there is no estimated surplus in the budget year, the appropriation for the program is proposed to be deleted.

Issue. The Los Angeles District Attorney's Office indicates that last year in Los Angeles County, 511 witnesses in 194 criminal cases were relocated. Of these cases, the LA DA's Office reports that 85 percent were gang related and 121 cases involved homicide or attempted homicide.

The LA DA's Office argues these funds should not be deleted for two reasons:

- The statement of legislative intent cannot bind future legislatures.
- Since 1997 the Legislature has passed several bills adding numerous expenditures, such as reimbursements for the purchase of home alarm systems, compensation for various persons who are not direct victims of crime, compensation for additional services, and increases in the total amount of benefits paid. The LA DA's Office argues that in none of these bills did the Legislature give these new expenditures priority over funding for the Witness Protection Program.

Staff Comments. The DOJ and the LA DA's Office have indicated a willingness to work with the board to help identify potential savings in the Restitution Fund that could help pay for this program.

Staff Recommendation. As highlighted in the previous issue, staff believes that there may be insufficient funds in the Restitution Fund to fund the *proposed* expenditures in the current year and in the budget year. Staff recommends that the board work with the LAO, DOF, local district attorneys, and the DOJ to identify potential revenue increases or expenditure reductions that would allow this program to continue getting some level of funding from the Restitution Fund.

Special Election Reimbursements.

Background. Under current law, all expenses incurred in the preparation for a special election to fill vacancies in the State Legislature or Congress are reimbursed by the state. These provisions are set to sunset by January 2005, unless extended by the Legislature.

Budget Request. The budget proposes savings of \$ 1 million in the budget year, and the administration proposes trailer bill language to remove the requirement that the state pays for such elections. This action would leave the county to pay for these special election costs.

CSAC has indicated that it opposes the proposed trailer bill.

Staff Comments. As indicated above, the Legislature has historically appropriates \$1 million for this purpose. To the extent that there are no appropriate special election costs, the funding reverts back to the General Fund. Should a special election requiring reimbursement occur, additional funding has been appropriated through the budget process, or through a deficiency request. Staff notes that it may be possible to reduce expenditures for this purpose without adopting trailer bill language. This action would provide savings, but would require the state to reimburse the costs of a special election should one be called.

Staff Recommendation. Staff recommends adopting the proposed \$1 million reduction, but rejecting the proposed trailer bill language.

Government Claims Board and Settlements and Judgments by the Department of Justice

The budget for this item reflects: (1) statewide expenditures for certain equity claims against the state approved for payment by the California Victim Compensation and Government Claims Board and referred to the Legislature in the omnibus claims bills for payment, (2) certain settlements and judgments against the state paid through judgment and settlement bills sponsored by the Department of Justice, and (3) administration and payment of tort and liability claims.

Background. The Department of Justice (DOJ) currently has the delegated authority to approve and pay General Fund tort claims against the State that do not exceed \$35,000. In previous years, Item 9670-001-0001 has provided up to \$1.2 million General Fund for this purpose. The approved claims were paid from this appropriation and the remainder of the \$1.2 million would revert back to the General Fund.

Budget Request. The budget does not propose any General Fund appropriation for this purpose. Claims under \$35,000 from General Fund agencies would be paid from the base budget of affected agency. Special Fund departments (such as the Department of Transportation) would also have the authority under this item to pay claims up to \$35,000 with DOF approval. To enable these departments to continue to pay special fund claims pursuant to this authority, the DOF is proposing to leave Item 9670 in the Budget Bill, with the provisional language addressing special funds, minus the General Fund appropriation.

The proposed language is identical to the language that was approved by the Legislature last year.

Staff Recommendation. Staff recommends approval as budgeted.

8100 Office of Criminal Justice Planning

The goal of the Office of Criminal Planning (OCJP) is to improve the criminal justice system by providing financial and technical assistance to local jurisdictions, state agencies, and the private sector, providing education and training for citizens, and providing technical support to the Administration.

The OCJP is the lead executive branch agency with respect to crime prevention, crime suppression, and criminal justice planning. In order to fulfill its goals, the OCJP is responsible for; (1) developing effective approaches for crime prevention and victim services programs, (2) providing technical assistance, (3) disseminating information on successful program models, (4) conducting training conferences and seminars on programs and issues, (5) conducting research, crime analysis, and program evaluations, (6) developing publications on crime prevention, victimology, and victim services for statewide distribution, and (7) providing financial assistance for victim services and criminal justice programs.

Budget Request. The OCJP is organized into two programs: Administration and Criminal Justice Projects, the table below summarizes expenditures for these programs. Funding for the Criminal Justice Projects Program is budgeted at \$247.2 million, a decrease of \$12.7 million, or 4.9 percent, below anticipated current year expenditures. The primary reason for this decrease is that budget proposes transferring \$9.8 million for the Domestic Violence Shelter Program to the Department of Health Services.

Proposed Reductions. Due to uncertain economic conditions, the budget proposes total reductions of \$719,000, including elimination of 5 positions and reductions in various OE&E expenditures.

Office of Criminal Justice Planning -- Program Expenditures					
Program	Expenditures (dollars in thousands)				Percent Change
	2001-02	2002-03	2003-04	Change	
Administration	\$3,348	\$3,757	\$3,834	\$77	2.0%
Distributed Administration	-3,348	-3,757	-3,834	-77	2.0%
Criminal Justice Projects	303,957	259,832	247,166	-12,666	-4.9%
California Antiterrorism Information Center	0	6,700	6,700	0	0.0%
Totals, Programs	\$303,957	\$266,532	\$253,866	-\$12,666	-4.8%
Total Authorized Positions	145	139	132	-6	-4.5%

Authorized Positions. The number of authorized positions is proposed to decrease by 6 to 132 positions in the budget year.

The table on the following page summarizes the funding sources for OCJP programs. The majority of funding for OCJP is provided from federal funds -- the budget proposes \$168.3 million, or 66.3 percent from the Federal Trust Fund, while \$64.6 million (25.4 percent) is from the General Fund. Of the total budgeted amount for OCJP, \$20.3 million (8 percent of the total budget) is for State Operations, and \$233.5 million (92 million) is for Local Assistance. The State Operations budget increased significantly in the current year primarily due to funding for the California Antiterrorism Information Center (\$6.7 million).

Office of Criminal Justice Planning – Source of Funding					
Fund	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2001-02	2002-03	2003-04	Change	Change
<i>State Operations</i>					
General Fund	\$4,907	\$11,038	\$10,691	-\$347	-3.1%
Local Public Prosecutors/Defenders Training Fund	67	67	72	5	7.5%
Victim/Witness Assistance Fund	1,482	1,492	1,564	72	4.8%
High Technology Theft Apprehension/ Prosecution Program Trust Fund	778	767	767	0	0.0%
Less funding provided by General Fund	-857	-731	-731	0	0.0%
Less funding provided by Federal Funds	-36	-36	-36	0	0.0%
Federal Trust Fund	6,606	8,094	7,712	-382	-4.7%
Reimbursements	55	310	310	0	0.0%
<i>Totals, State Operations</i>	<i>\$13,002</i>	<i>\$21,001</i>	<i>\$20,349</i>	<i>-\$652</i>	<i>-3.1%</i>
<i>Local Assistance</i>					
General Fund	\$111,779	\$59,421	\$53,891	-\$5,530	-9.3%
Local Public Prosecutors/Defenders Training Fund	792	792	792	0	0.0%
Peace Officer Training Fund	5,000	0	0	0	n/a
Victim/Witness Assistance Fund	15,519	15,519	15,519	0	0.0%
High Technology Theft Apprehension/ Prosecution Program Trust Fund	13,518	13,518	13,518	0	0.0%
Less funding provided by General Fund	-13,300	-13,300	-13,300	0	0.0%
Less funding provided by Federal Funds	-218	-218	-218	0	0.0%
Federal Trust Fund	155,379	167,025	160,541	-6,484	-3.9%
Reimbursements	2,486	2,774	2,774	0	0.0%
<i>Totals, Local Assistance</i>	<i>\$290,955</i>	<i>\$245,531</i>	<i>\$233,517</i>	<i>-\$12,014</i>	<i>-4.9%</i>
Totals, Programs	\$303,957	\$259,832	\$247,166	-\$12,666	-4.9%

The table on the next page summarizes the OCJP's funding by program. The budget proposes funding for 37 programs, generally divided between victim services programs, and public safety programs.

OCJP Summary of Program Budget Amounts by Fund – Local Assistance			2003-04		
(Dollars in Thousands)					
Program	Total	Fund Source			
		General Fund	Federal Fund	Special Fund	Reimb.
Victim Services					
Victim Witness Assistance	\$10,871			\$ 10,871	
Victim’s Legal Resource Center	41	41			
Domestic Violence	0				
Family Violence Prevention	50	50			
Violence Against Women Act (VAWA)	12,990		12,990		
Rural Domestic Violence/Child Victimization	571		571		
Rape Crisis	3,720	50		3,670	
Rape Prevention (DHS)	5,571		5,571		
Homeless Youth	396	396			
Youth Emergency Telephone Referral	127	127			
Child Sex Abuse & Exploitation	978	0		978	
Child Sex Abuse Prevention & Training	302	302			
Victims of Crime Act (VOCA)	40,698		40,698		
Mandates Claims Bill	2	2			
Subtotals- Victims Services	\$76,317	\$968	\$59,830	\$15,519	\$0
Public Safety					
Community Crime Resistance	\$231	\$231			
War on Methamphetamine	15,000	15,000			
Career Criminal Apprehension	866	866			
Career Criminal Prosecution	3,637	3,637			
Major Narcotics Vendors Prosecution	2,641	2,641			
Serious Habitual Offender	137	137			
Vertical Prosecution of Statutory Rape	6,770	6,770			
Elder Abuse Vertical Prosecution	2,000	2,000			
Child Sex Assault Prosecution	1,304	1,304			
Evidentiary Medical Training	648	648			
Forensic Sciences Improvement Act	358		358		
Children’s Justice Act (CJA)	1,850		1,775		75
Vertical Defense of Indigents	172	172			
Public Prosecutors/Defenders Training	800	8		792	
Byrne Fund	52,118		52,118		
Residential Substance Abuse Treatment	9,135		9,135		
Local Law Enforcement	882		882		
Peace Officer Protective Equipment	1,275		1,275		
High Tech Theft Apprehension/Prosecution	13,518			13,518	
Suppression of Drug Abuse in Schools	2,416	690			1,726
Gang Violence Suppression	4,063	2,085	1,005		973
Multi Agency Gang Enforcement Consortium	93	93			
Juvenile Justice & Delinquency Prevention	6,060		6,060		
Community Delinquency Prevention	5,002		5,002		
Juvenile Accountability Incentive	21,769		21,769		
Juvenile Justice—Project Challenge	1,114		1,114		
Rural Crime Prevention	3,341	3,341			
Subtotals – Public Safety	\$157,200	\$39,623	\$100,493	\$14,310	\$2,774
Totals, Local Assistance	\$233,517	\$40,591	\$160,323	\$29,829	\$2,774

Budget Issues

Bureau of State Audits Report on OCJP's Programs

Audit Findings. At the request of the Legislature, the Bureau of State Audits (BSA) issued a report in October 2002 examining OCJP's administration of state and federal grants, including the domestic violence shelter program. In particular, the BSA was requested to review how the department makes decisions on which grant applicants to approve or deny for receipt of federal and state funds. The BSA also investigated OCJP's program monitoring and evaluation process. Overall, the BSA audit found that while OCJP met some of its responsibilities in administering state and federal grant programs, it failed to meet other important responsibilities. The findings generally fall into two categories: those relating to the applications review process, and those relating to program evaluations.

- ***Application Review Process Lacking.*** According to BSA, OCJP lacked established guidelines and a structured review process for denying funding to applicants based on past performance. In addition, OCJP did not provide consistent and prompt oversight of grant recipients. The OCJP had not performed planned site visits, sometimes did not follow up with grant recipients that failed to submit required reports on time, had not promptly reviewed required reports, and had not ensured that grant recipients promptly implemented corrective actions.
- ***OCJP's Evaluation Process Lacking.*** The BSA also found that OCJP had not properly planned its evaluations or managed its evaluation contracts. As regards evaluation planning, OCJP did not have a planning process in place to prioritize evaluations of those grants that do not have mandated evaluation requirements. Also, the office did not have guidelines stating what an evaluation should include or what an evaluation should accomplish. As regards evaluation contracts, OCJP failed to develop measurable deliverables in its scope of work in two contracts, and consequently it had no way of ensuring that it would receive what it needed from these evaluations. Finally, BSA concluded that during the past three years, OCJP's evaluation branch spent \$2.1 million on activities that culminated in evaluations of uneven quality, content, and usefulness.

The BSA review also looked more closely at the management of the domestic violence programs that are administered by OCJP and the Department of Health Services (DHS). In addition to the some of the concerns regarding OCJP's administration, the report also notes that DHS has not established guidelines as to how past performance will be considered when competitively awarding grants and has failed to perform some of its oversight responsibilities such as completing site visits for 3 of its 91 shelter-based grant recipients.

Finally, the report concludes that because many of OCJP's and DHS's activities for awarding grants and conducting oversight of shelter-based grant recipients overlap, the state could improve its provision of domestic violence services by moving toward greater coordination or consolidation of their respective programs.

BSA Recommendations Regarding OCJP's Administration of Grants. The BSA report highlights twenty recommendations relating to the grant application process, grant oversight, evaluations of grants, and allocation of administrative costs.

Finding: Weaknesses in OCJP's Process for Awarding Grants May Result in the Appearance that its Awards are Arbitrary or Unfair. To ensure its application process is fair and impartial, BSA recommends that OCJP create guidelines and criteria to determine when a grant applicant's past performance issues rise to the level for it to consider denying continued funding for that applicant. BSA also recommends that OCJP conduct periodic uniform reviews of all applicants' past performance and clearly state in the rejection letters sent to the applicants the reasons they were denied funding. To improve outreach to its grant recipients and comply with legislation that is soon to take effect, BSA recommends that OCJP create an advisory committee for the domestic violence program that could provide guidance on key program decisions.

Finding: OCJP Does Not Provide Consistent and Prompt Oversight of Grant Recipients. The BSA report also recommends that OCJP take several actions to improve its oversight of grant recipients. These actions include ensuring prompt site visits of newly funded grant recipients, establishing a process for identifying which grant recipients OCJP should visit first when it conducts monitoring visits, developing written guidelines to determine when and how staff should follow up on late progress reports, ensuring that it reviews audit reports within six months of receipt in order to comply with federal guidelines, and revising its audit report review of municipalities to eliminate duplication of effort with the State Controller's Office. BSA recommends that OCJP also establish written guidelines to address how staff should follow up on problems identified in progress reports or during site visits, and require that its monitors review grant recipients' corrective action plans to ensure problems identified during monitoring visits have been appropriately resolved.

Finding: OCJP Has Not Properly Planned Its Evaluations or Managed Its Evaluation Contracts. The BSA found that over the last three fiscal years, the evaluations branch at OCJP spent approximately \$2.1 million on activities culminating in evaluations that proved of uneven quality, content, and usefulness because of OCJP's lack of proper planning and poor contract management. To improve its evaluations branch, BSA recommends that OCJP develop a plan for selecting and designing evaluations. OCJP should include measurable deliverables and timelines in its contracts with evaluators and hold evaluators to their contracts. It should also ensure that interagency agreements with university campuses comply with state guidelines regarding competitive bidding.

Finding: OCJP's Allocation of Indirect and Personnel Costs May Have Resulted in Some Programs Paying for the Administration of Others. The BSA found that indirect and personnel costs account for \$10.7 million or 80 percent of the \$13.3 million it spent on administrative costs in 2000-01. However, because of the flaws in allocating indirect and personnel costs, it cannot be sure that it assigned these costs to the program that incurred them. BSA recommends that OCJP ensure that it equitably allocates all indirect costs to appropriate units and it maintains sufficient documentation to support the basis for cost allocation. Budget Committee staff notes that at this time, OCJP cannot provide information to the Subcommittee which allocates personnel or personnel-years across programs. Because of this, for the proposal to transfer the domestic violence program to DHS, the Subcommittee has no information to indicate whether the proposed reduction of 1.4 positions from OCJP is appropriately the number of positions that work on that program.

BSA Recommendations for Potential Coordination/Consolidation of Domestic Violence Services. As noted above, among its findings, the BSA review notes that because OCJP and DHS are operating similar shelter-based programs, some duplication occurs in award and oversight activities.

Finding: Greater Cooperation or Consolidation Between OCJP's and DHS's Domestic Violence Programs Could Increase Efficiency. The BSA report recommends that to improve the efficiency of the State's domestic violence programs, OCJP and DHS coordinate the development of their application

processes and identify areas common to both where they could share information or agree to request information in a similar format. To eliminate duplicate oversight activities, OCJP and DHS should also consider aligning their reporting periods for progress reports, coordinating their visits to shelters, and establishing procedures for communicating concerns or problems regarding shelters. In addition, the report concludes that OCJP and DHS, along with the Legislature, should consider implementing one of the following alternatives:

- Continue to coordinate the departments' activities on projects in which both have interests in improving services. In addition, OCJP and DHS should each strive to identify opportunities to focus funding on specific activities. This would include establishing base funding for shelters.
- Issue a joint application for both departments' shelter-based programs but have each department continue its separate oversight.
- Combine the shelter-based programs at one department. This alternative would require some changes to state law and funding appropriations because both departments have authorizing legislation establishing their shelter-based programs. The legislation also imposes separate requirements on the funding each receives.
- Consolidate all domestic violence programs at one department. This alternative would also require legislative and funding appropriation changes.
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BSA suggests Consolidating at OCJP Rather Than DHS May be More Efficient. With respect to combining the shelter based programs at one department, the BSA report suggests that OCJP would be the more efficient choice because of the complexity of three federal funding sources that fund the domestic violence shelter program and other victim programs within OCJP, the potential for linkage between the domestic violence shelter program and other OCJP programs that train law enforcement personnel and prosecutors to more effectively respond to violence against women.

In its response to the report, OCJP indicates that it agrees with many of the recommendations and indicates that it is taking actions to implement changes in response.

Staff Comments. The Subcommittee may wish to ask OCJP to report on specific actions it is taking with respect to the major findings in BSA's audit, including actions related to improvements in (1) its grant award process, (2) its appeal process, (3) planning of evaluations and management of evaluation contracts, (4) and proper allocation of indirect and personnel costs across programs.

According to information received by the Subcommittee, OCJP has begun implementing actions recommended by the BSA audit.

Appeal Decisions. OCJP has drafted revised appeal guidelines regarding competitive funding decisions. OCJP has requested that the California Council on Criminal Justice, the body that hears such appeals, review and approve the guidelines in their April 2003 meeting. OCJP does not plan to solicit input from the field prior to implementing the draft guidelines. In January, OCJP indicated that it had anticipated implementing these guidelines by March.

Oversight of Grantees. OCJP has drafted a plan to address improvements, which is currently under review by its executive staff.

Allocation of Indirect and Personnel Costs. OCJP has begun to use functional timesheets on a trial basis and expects to use these department-wide by June.

Staff Recommendation. Staff recommends withholding funding for OCJP pending full implementation of the actions recommended in the BSA report from last October.

Shift of Domestic Violence Shelter Program to the Department of Health Services

Budget Request. The budget proposes shifting \$9.8 million for OCJP's domestic violence shelter program to the Department of Health Services (DHS). The amounts to be transferred include \$9.1 million from the federal Family Violence Prevention Block Grant, and \$730,000 from the General Fund.

The proposal would transfer a total of \$359,000 in state operations funding to DHS. A total of 1.4 positions would be eliminated at OCJP. No new positions would be created at the DHS.

Proposed Transfer is Incomplete. OCJP indicates that it is working with DOF and DHS to determine if any additional funding will be transferred in order to support the domestic violence program. The level of funding for this program in the current year is approximately \$15 million. The difference between this amount and the \$9.1 million that is proposed to be transferred is made up of Victim Of Crime Act (VOCA) and Violence Against Women Act (VAWA) funds.

OCJP indicates that it is working with DOF and DHS regarding the transfer of this program to DHS. However, at this time, there is no specific proposal for how the administration intends to transfer the VOCA and VAWA funds historically used to fund program to DHS. Staff notes that there is no mention of the transfer of additional funds in the Budget Change Proposal (BCP), and at the time of this being written, staff has not received anything in writing from the OCJP or the administration with assurances that there will not be a decrease in funding for the domestic violence shelter program. The Subcommittee may wish to ask OCJP and the administration why there is no mention of transferring the VOCA and VAWA funds in the BCP, whether there is a commitment to maintain funding for the program at the current level, and the options that are being explored for transferring the VOCA and VAWA funds.

The Legislature has received a letter from the California Alliance Against Domestic Violence indicating that a majority of the domestic violence service providers that it represents would prefer to remain at OCJP while consolidation of domestic violence and sexual assault funding is further explored.

Report on Crime Victim Services. Last year, the Legislature enacted Chapter 89, Statutes of 2002 (AB 2435, Jackson), which requires the Secretary of State and Consumer Services to submit a report by January, 2004 on crime victim services in the state. The legislation specifies that the report shall include the following:

- A review of the location, effectiveness, and appropriateness of services for victims of crime in the state in comparison to services in other states, federal standards outlined in publications of the federal Office for Victim Services, and comprehensive programs for services to crime victims.
- An examination of, and recommendations on revisions to, state law germane to crime victim services, with the goal of improving and integrating the services.
- A survey of existing training for providers of services to crime victims to identify gaps or inadequacies.

- A review of expenditures and revenues, including out-year projections of the cost of current services, and recommendations for increased services and revenues.
- An exploration of a variety of funding options to ensure seamless, integrated service delivery.

Staff Recommendation. Staff notes that the work being performed for this victim services report could provide the State and Consumer Services Agency with an opportunity to review consolidation options and make recommendations on options for consolidation of victim services generally, including options for consolidation or coordination of services for victims of domestic violence. Staff recommends that the legislature reject the proposed consolidation of funding at the DHS (and the proposed trailer bill language), pending receipt and review of the report from the Secretary of State and Consumer Service in January 2004.

Shifting OCJP Functions to Other Departments

Background. Currently, OCJP is the designated state agency for the administration of several large federal grant programs. The federal grants include the Violence Against Women Act, Victims of Crime Act, Byrne Act, and the Juvenile Justice and Delinquency Prevention Act. As the lead agency responsible for the administration of these federal grants, the OCJP provides quarterly financial and annual programmatic information to the federal government on these programs. The OCJP also provides staff support to several advisory committees. In addition to these federal programs, OCJP administers numerous other state initiated programs aimed at addressing public safety, victim services, and juvenile justice. For the most part, OCJP is a vehicle for disbursing federal and state funds to local government and community-based organizations, as compared to directly administering programs.

LAO Notes Significant Programmatic Overlap. In its *Analysis*, the LAO notes that there is significant programmatic overlap between the programs that OCJP administers and programs administered by several other state agencies. The OCJP programs fall into three broad categories: victim services, public safety, and juvenile justice. The primary mission of the victim services programs is to help victims overcome the trauma of crime and to help communities prevent violent crimes. For the most part, this is achieved by providing grants—mainly federal grants, such as Violence Against Women Act grants—to state, local, and community-based organizations for the administration of programs. This mission, or components thereof, is shared by other state agencies, such as the DHS and the California Victim Compensation and Claims Board (CVCCB). The CVCCB, for example, works with local governments and community-based nonprofit victim support organizations to provide education and outreach to victims of crime. Some of these same counties and community-based organizations receive grants from OCJP for the provision of victim-related services.

Through its public safety programs OCJP provides funds and technical assistance to law enforcement agencies throughout the state, including district attorney's offices, sheriff's departments, and probation departments. These funds help support crime prevention and targeted law enforcement activities. The Lao notes that other departments, most notably the Board of Corrections (BOC) and the Department of Justice (DOJ), share these same broad goals and objectives.

In terms of the public safety mission, there is evidence of overlap of effort between DOJ and OCJP. For example, both OCJP and the DOJ have programs that target methamphetamine-related crimes. The OCJP

administers the War on Methamphetamine program, while DOJ administers the California Methamphetamine Strategy (CALMS). The programs share the same goal in that both seek to reduce and eradicate the illegal production of methamphetamine through increased arrests, prosecutions, and lab seizures. The only major difference is that OCJP provides funds to local government, while DOJ funds state-level law enforcement officers who provide technical assistance to the local agencies in support of their law enforcement efforts. In addition, it should be noted that both programs are maintaining or developing a database to track the locations of labs and the number of seizures.

Based upon its assessment, the LAO indicates that it can find no benefit to having these programs administered by separate departments. From both an administrative and cost-efficiency perspective, the LAO believes that it would be more beneficial to have all of the existing methamphetamine activities under one department, thereby reducing the likelihood of duplication and improving the level of coordination between state and local agencies.

Juvenile Justice Programs. The OCJP administers about \$30 million in federal funds that support several programs aimed at reducing juvenile delinquency and juvenile crimes, including the Juvenile Justice and Delinquency Prevention program, the Juvenile Justice-Project Challenge Grant program, and the Community Delinquency Prevention program. These programs generally provide local assistance to counties and other agencies to conduct programs that are intended to decrease juvenile delinquency. These OCJP programs are very similar to programs administered by the BOC, in particular the Juvenile Crime Enforcement and Accountability Challenge Grant Program and the Crime Prevention Act of 2000 which are designed to reduce the threat of juvenile crime and delinquency.

Consolidating Could Improve Service Delivery and Efficiency. The LAO believes that consolidating OCJPs programs into other departments that have the same goals, and/or serve similar constituencies would likely improve these programs and result in program efficiencies. For example, the LAO notes that consolidating both of the methamphetamine programs into one division at DOJ should result in program efficiencies since one department would oversee all aspects of the program. Similarly, the LAO indicates that consolidating all juvenile justice programs into one division at BOC, would allow local governments that receive existing BOC funds as well as OCJP funds to apply to one department for these grant funds instead of two. Furthermore, BOC staff could use their knowledge of the programs available in these communities to maximize the use of these resources.

Analyst's Recommendation. In view of its poor performance record and overlapping functions with other state agencies, the LAO recommends that OCJP programs be transferred to other state departments. Specifically, the LAO believes that consolidating victims programs at the Victim Compensation and Government Claims Board, juvenile justice programs at the Board of Corrections, and public safety programs at the Department of Justice would likely improve service delivery and efficiency.

LAO's Estimated Administrative Savings. In addition to improving service delivery and efficiency, the LAO indicates that program consolidation would result in General Fund savings, as well as freeing up additional federal funds to support victims and law enforcement programs. For 2002-03, OCJP had 163 authorized positions distributed as follows: 28 in the executive office, 49 in administration, and 86 for program operations. The LAO recommends that all of the program positions be transferred to the recommended departments, thus retaining all program capabilities necessary to carry out the shifted programs. Within the executive office, the LAO recommends eliminating 17 positions, and moving 11 positions to the affected departments. Of the 49 administration positions, the LAO recommends eliminating 34 positions and transferring 15 (1 Staff Services Manager, 1 Staff Services Analyst, 1 Information Systems Analyst, 1 Accounting Technician, and 1 Office Technician to each of the departments to which programs would be transferred). In total, this results in a reduction of 51 positions and salary savings of \$2.9 million. When staff benefits and operating expenses and equipment are

incorporated, total savings are approximately \$5.3 million. Based on the 29 percent General Fund share of state operations costs at OCJP, General Fund savings from this consolidation are estimated to be \$1.5 million, leaving \$3.7 million in federal funds that could be used for programs.

Staff Comments. Last year, based on an option provided by the LAO, the Subcommittee considered transferring OCJP program to other departments. The Subcommittee did approve transferring OCJP's juvenile justice programs to the Board of Corrections. The Conference Committee later restored these programs to OCJP.

Staff Recommendation. Staff recommends that the Subcommittee direct the LAO to work with staff, OCJP grantees, the DOF, and OCJP to provide additional detail regarding their recommendation, including a proposal specifying the programs and dollar amounts that would be transferred to other agencies, and a revised savings estimate.

Local Assistance Grant Reductions.

Budget Proposal. The budget proposes a reduction of \$3.6 million from various local assistance grant programs. The proposed reductions would continue reductions proposed in the current year revision for various local assistance grant programs. The table below highlights the proposed reductions.

Various OCJP Local Assistance Programs			
Program Name	Previous Grant Amount	Reduction Amount	Proposed 2003-04 Budget
Victims Legal Resource Center	86,000	-45,000	41,000
Family Violence Prevention	97,000	-47,000	50,000
Homeless Youth	441,000	-45,000	396,000
Youth Emergency Telephone	169,000	-42,000	127,000
Child Sexual Abuse & Exploitation	1,000	-1,000	0
Child Sexual Abuse Prevention & Training	336,000	-34,000	302,000
Community Crime Resistance	461,000	-230,000	231,000
Career Criminal Apprehension	1,154,000	-288,000	866,000
Career Criminal Prosecution	3,987,000	-350,000	3,637,000
Serious Habitual Offender	273,000	-136,000	137,000
Vertical Prosecution - Statutory Rape	8,361,000	-1,591,000	6,770,000
Evidentiary Medical Training	682,000	-34,000	648,000
Vertical Defense of Indigents	346,000	-174,000	172,000
Public Prosecutor/Defender Training	14,000	-6,000	8,000
Suppression of Drug Abuse in Schools	768,000	-78,000	690,000
Gang Violence Suppression	2,321,000	-236,000	2,085,000
Multi-Agency Gang Enforcement Consortium	124,000	-31,000	93,000
Rural Crime Prevention	3,541,000	-200,000	3,341,000
Total	\$23,162,000	-\$3,568,000	\$19,594,000

Staff Comments. The Subcommittee may wish to ask OCJP to explain the rationale for the reductions to these programs and not to others. Further, the Subcommittee may wish to review other local assistance programs to determine if additional adjustments should be considered. For example, no reductions were proposed for OCJP's two largest General Fund grant programs, the War on Methamphetamine Program which provides \$15 million to central valley and northern rural counties to target anti-methamphetamine efforts, and the High Technology Theft and Apprehension Program which provides \$13.3 million from the General Fund to support regional High Technology Task Forces which target high technology crime.

Staff Recommendation. Staff recommends approving the proposed reductions and directing the LAO to work with staff to identify options for additional reductions from OCJP's grant programs.

Hearing of the Select Committee on Governmental Oversight

At a hearing on March 4, the Senate Select Committee on Governmental Oversight reviewed operations at OCJP. At the hearing, the committee discussed a broad range of topics, including the BSA audit, the LAO consolidation recommendation, as well as issues related to the efficiency and effectiveness of OCJP.

Staff Comments. Staff notes that the Select Committee will be recommending actions to be taken by the Subcommittee. Budget Committee staff will work with Select Committee staff as they review the information being provided to the Select Committee. Given the discussions at the hearing, staff anticipates potential recommendations from the Select Committee related to OCJP's implementation of the BSA audit recommendations, consolidation of OCJP with other departments, the management structure of OCJP and the ratio of managers to employees at the department, and the efficiency of administrative expenditures generally by the department.